

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRACEY LIU, et al.,

Plaintiffs,

v.

HOME DEPOT USA, INC.,

Defendant.

CASE NO. C23-1217JLR

ORDER

Before the court is Plaintiffs Tracey Liu and Kristie Rudham's unopposed motion for preliminary approval of their proposed class action settlement with Defendant Home Depot USA, Inc. (Mot. (Dkt. # 19); *see* Settlement Agreement (Dkt. # 19-1).) The court DENIES Plaintiffs' motion without prejudice.

Having reviewed Plaintiffs' motion and its accompanying materials, the court is generally satisfied that the parties' proposed settlement meets the requirements for preliminary approval set forth in Federal Rule of Civil Procedure 23(e)(1)(B). *See* Fed. R. Civ. P. 23(e)(1)(B) (requiring the parties to show "that the court will likely be able to:

1 (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of
2 judgment on the proposal” before the court directs notice of the proposed settlement);
3 Fed. R. Civ. P. 23(e)(2) (providing that the court may approve a proposed settlement
4 “only on finding that it is fair, reasonable, and adequate” after considering four factors).
5 Before the court can preliminarily approve the proposed settlement, however, the parties
6 must adjust certain deadlines specified in the Settlement Agreement.

7 Federal Rule of Civil Procedure 23(h) provides that class members must have
8 notice of class counsel’s motion for an award of attorneys’ fees and costs and an
9 opportunity to review and object to the same. Fed. R. Civ. P 23(h); *see In re Mercury*
10 *Interactive Corp. Sec. Litig.*, 618 F.3d 988, 995 (9th Cir. 2010) (“[A] schedule that
11 requires objections to be filed before the fee motion itself is filed denies the class the full
12 and fair opportunity to examine and oppose the motion that Rule 23(h) contemplates.”).
13 Here, the Settlement Agreement provides that (1) Plaintiffs will file their motion for an
14 award of fees, costs, and expenses no later than 14 days after issuance of notice, (2) class
15 members must submit objections or exclusions no later than 30 days after issuance of
16 notice, (3) class members must submit claims no later than 60 days after issuance of
17 notice, and (4) Plaintiffs must file their motion for final approval of the settlement no
18 later than 75 days after the court issues its preliminary approval order. (*See Settlement*
19 *Agreement* §§ I.K, X, Y (definitions); *id.* § III.E.1 (procedure for moving for an
20 attorneys’ fees award).) In the court’s view, these deadlines do not afford class members
21 adequate time to fully consider the Settlement Agreement and class counsel’s attorneys’
22 fees motion before deciding whether to object or seek exclusion. This problem is

exacerbated when notice sent to the original email or mailing address provided by Home Depot is returned as undeliverable and must be reissued. (*See* Kamenir Decl. (Dkt. # 23) ¶¶ 15-21 (describing how the Settlement Administrator will identify valid addresses for undeliverable notices and reissue those notices).)

To address these concerns, the parties are DIRECTED to revise the deadlines specified in the Settlement Agreement and proposed forms of notice to allow at least as much time for class members to consider the Settlement Agreement and attorneys' fees motion as set forth in the following table:

Event	Deadline
Notice Deadline	Preliminary Approval + 30 days
Fees Motion Deadline (filed and posted on settlement website)	At least 45 days before Objection/Exclusion Deadline
Objection/Exclusion Deadline	Notice Deadline + 60 days
Claims Deadline	Notice Deadline + 90 days
Final Approval Motion Deadline	Claims Deadline + 15 days
Deadline to Respond to Objections	Claims Deadline + 15 days
Final Approval Hearing	No earlier than Final Approval Motion Deadline + 30 days

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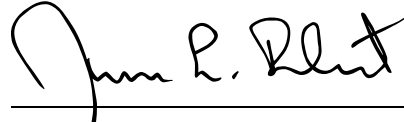
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1 Plaintiffs may file a renewed motion for preliminary approval of the parties'
2 proposed class action settlement after the parties have revised their materials to satisfy
3 the concerns identified above.

4 Dated this 4th day of April, 2024.

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7 JAMES L. ROBART
8 United States District Judge
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